

1 JOSEPH T. MCNALLY
2 Acting United States Attorney
3 LINDSEY GREER DOTSON
4 Assistant United States Attorney
5 Chief, Criminal Division
6 SHAWN J. NELSON (Cal. Bar No. 185149)
7 KYLE W. KAHAN (Cal. Bar No. 298848)
8 KELLYE NG (Cal. Bar No. 313051)
9 JASON A. GORN (Cal. Bar No. 296179)
10 Assistant United States Attorneys
11 1400/1300 United States Courthouse
12 312 North Spring Street
13 Los Angeles, California 90012
14 Telephone: (213) 894-5339/2238/8408/7962
15 Facsimile: (213) 894-0142
16 E-mail: shawn.nelson@usdoj.gov
17 kyle.kahan@usdoj.gov
18 kellye.ng@usdoj.gov
19 jason.gorn@usdoj.gov

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21 Attorneys for Plaintiff
22 UNITED STATES OF AMERICA

23 UNITED STATES DISTRICT COURT

24 FOR THE CENTRAL DISTRICT OF CALIFORNIA

25 UNITED STATES OF AMERICA,

26 Plaintiff,

27 v.

28 MICHAEL LERMA, et al.,

29 Defendants.

30 No. CR 2:18-00172 (A)-GW

31 GOVERNMENT'S REPLY TO DEFENDANT
32 JUAN SANCHEZ'S SUPPLEMENTAL
33 DECLARATION OF ROY T. GRAVETTE IN
34 OPPOSITION TO MOTION IN LIMINE #5
35 (Dkt. 1501)

36 Hearing Date: February 10, 2025

37 Hearing Time: 1:00 p.m.

38 Location: Courtroom of the
39 Hon. George H. Wu

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41 Plaintiff United States of America, by and through its counsel
42 of record, the Acting United States Attorney for the Central District
43 of California and Assistant United States Attorneys Kyle W. Kahan,
44 Shawn J. Nelson, Kellye Ng, and Jason A. Gorn, hereby files its reply
45 to defendant Juan Sanchez's supplemental declaration of Roy T.
46 Gravette, filed as Docket Number 1501.

This reply is based upon the attached memorandum of points and authorities, the files and records in this case, and such further evidence and argument as the Court may permit.

JOSEPH T. MCNALLY
Acting United States Attorney

LINDSEY GREER DOTSON
Assistant United States Attorney
Chief, Criminal Division

/s/

Attorneys for Plaintiff
UNITED STATES OF AMERICA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. DEFENSE'S EXPERT OPINIONS ARE NOT RELIABLE AND ARE UNDULY
3 SPECULATIVE DUE TO HIS LACK OF RELEVANT EXPERIENCE**

4 Mr. Gravette's supplemental declaration fails to adequately
5 state a reliable basis for an expert opinion on both relevant BOP
6 policies and how they would be carried out at Metropolitan Detention
7 Center- Los Angeles ("MDCLA"). Mr. Gravette fails to state either
8 any familiarity with MDCLA's policies or how MDCLA would actually
9 train its employees, rather than how it should. And because Mr.
10 Gravette cannot testify how MDCLA trains its employees, he cannot
11 properly opine how MDCLA's employees would follow or not follow this
12 training. Because Mr. Gravette lacks this relevant experience, his
13 overall opinion as to how MDCLA correctional officers would have
14 found S.B. at a specific point in time remains speculative.

15 Indeed, Mr. Gravette admits that, while small, there is local
16 variation "in the manner in which federal facilities ensure the
17 presence, safety and security of the inmate population." Dkt. 1501
18 at 5. Mr. Gravette's background leaves him unable to explain to the
19 jury what these variations would entail.¹

20 Mr. Gravette's attempts to use other courts' findings should
21 hold no weight here.² See Willis v. Oklahoma Cty. Detention Ctr.,
22 5:18-CV-323-D, Dkt. 183 (W.D. Okla. Jan. 5, 2022) (allowing Mr.

23 ¹ While Mr. Gravette notes that local variations require Bureau
24 of Prisons ("BOP") approval and incorporation into a written
25 supplement, counsel has informed Mr. Gravette that their review of
26 the materials has led to "nothing material to [Mr. Gravette's]
27 anticipated testimony. Dkt. 1501 at 2. On February 4, 2025, counsel
informed the government that they were only operating under the
impression that the supplements contained nothing material.

28 ² The government notes that, contrary to Mr. Gravette's
assertion, the government did object to his testimony in United
States v. Kertesz, 5:20-CR-00012-JGB, Dkt. 123.

1 Gravette to testify whether a defendant's conduct was consistent with
2 established custom and practice); Harris v. Bowser, 18-CV-768-CKK,
3 Dkt. 72 (D.D.C. Oct. 1, 2021) (allowing Mr. Gravette to testify
4 whether certain conduct met accepted standards of professional
5 judgment). "A district court must distinguish an expert's
6 qualifications from the reliability of the expert's principles and
7 methods." United States v. Holguin, 51 F.4th 841, 854 (9th Cir.
8 2022) (emphasis in original); cf. Daubert v. Merrell Dow Pharms.,
9 Inc., 43 F.3d 1311, 1315-16 (9th Cir. 1995) ("[S]omething doesn't
10 become 'scientific knowledge' just because it's uttered by a
11 scientist.").

12 This Court must make its own independent findings on the
13 reliability of Mr. Gravette's proffered opinions. Holguin, 51 F.4th
14 at 854-55. When an "expert's reasoning is circular, speculative, or
15 otherwise flawed," it cannot be deemed reliable. Id. at 855. Mr.
16 Gravette's proffered testimony is not an explanation of standard
17 customs and practices and opining whether certain behavior met that
18 standard. Instead, his proffered testimony is taking presumed
19 standard customs and practices, implying that a certain facility
20 where he has never worked actually followed those practices, and
21 speculating how its correctional officers would adhere to those
22 policies in a specific manner.

23 In summary, Mr. Gravette has no relevant knowledge on the actual
24 training and organization of MDCLA. Instead, he relies on a
25 generalized analysis of BOP materials to come to his conclusion; a
26 conclusion that only further speculates as to what MDCLA correctional
27 officers would have done if trained in a certain manner. Mr.
28 Gravette lacks the proper experience to opine how applicable BOP

1 policies would be carried out at MDCLA. Mr. Gravette's testimony is
2 thus unreliable. This Court should follow its tentative ruling and
3 exclude him from trial.

4 **II. CONCLUSION**

5 For the foregoing reasons, as well as the reasons articulated in
6 the government's motion and initial reply, the government
7 respectfully requests that this Court grant the government's motion
8 in limine #5.

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